

In the United States District Court for the
Southern District of Illinois

Aaron Fillmore,
Plaintiff,

v.

NO. 3:22-cv-02705-GCS

Latoya Hughes, et al.
Defendants.

PLAINTIFF'S OBJECTIONS AND MOTION TO ALTER
OR AMEND THE JUDGMENT

Now comes plaintiff Aaron Fillmore, pro se, with his objections and motion to alter or amend the judgment pursuant to Fed. R. Civ. Proc. 59(e) based upon a manifest error of fact.

BACKGROUND

- 1.) Plaintiff is a state prisoner and filed a §1983 claim against defendants for deliberate indifference and failing to accommodate his disability, thus denying him programs, services and activities. (DOC 1). Plaintiff has a known and clear permanent physical disability that mandates alternative cutting. (DOC 1, 24).

On March 28, 2025 the Court entered a judgment in favor of defendants on plaintiffs ADA/RA and deliberate indifference claims in this matter.

ARGUMENT

PLAINTIFF ESTABLISHED DISPUTED MATERIAL FACTS OF ADA/RA AND DELIBERATE INDIFFERENCE AGAINST DEFENDANTS MYERS AND WISE IN FAILING TO ACCOMMODATE HIS DISABILITY


Plaintiff alleges a manifest error of fact by this court as follows:

- 1.) The court's finding that plaintiff did not allege or produce evidence of injury is contrary to the record. (Order @ 10). Plaintiff's verified complaint at ¶¶ 17 & 24 clearly alleges that only through the use of excessive force it is impossible to cuff plaintiff behind his back without causing unnecessary and wanton infliction of pain and injury. Plaintiff's sworn deposition testimony also alleges this undisputed material fact. (Pl. Dep. at p. 96 line 4-16). Plaintiff could not be handcuffed behind his back, it was physically impossible. (Pl. Dep. at p. 115 lines 3-8) (Doc 24).

A failure to accommodate claim is not about substandard medical care, nor medical malpractice. Brown v. Meisner, 81 F.4th 706, 709 (5th cir. 2023). To prevail under a failure to accommodate claim, a plaintiff must show that defendant reasonably could have accommodated his disability but refused to do so. Finley v. Huss, 102 F. 4th 789, 820 (6th cir. 2024). This is a classic ADA/RA violation case where plaintiff was physically unable to be cuffed behind his back due to his permanent disability and was denied all accommodations by defendants. (See: Pl. Depo. at p. 71 lines 15-22; p. 72 lines 13-15; p. 79 lines 2-5; p. 95 lines 9-25; p. 96 lines 1, 4-16; p. 100 lines 1-5; p. 115 lines 3-11). Plaintiff was forced to deny/refuse program outside of his cell by defendants refusal to renew his medical permit. Failure to renew plaintiff's medical permit for alternative cuffing for his permanent physical disability is deliberate indifference. Thomas v. Martija, 991 F.3d 763, 769-70 (7th cir. 2021); Palmer v. Franz, 928 F.3d 560, 564 (7th cir. 2019).

Therefore, the court's finding that plaintiff "claims it hurt when he was cuffed behind the back" and not alleged "that he was physically unable to be cuffed behind his back" is a manifest error of fact.

WHEREFORE, plaintiff respectfully requests this court to alter and amend its March 28, 2025 summary judgment against him on his ADA/RA and deliberate indifference claims in Counts 1-3 in this matter.

Respectfully Submitted,


April 2, 2025

Aaron Fillmore
#910259, NENMCF
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CERTIFICATE OF SERVICE

I, Aaron Fillmore, hereby declare under Sec. 1746,
28 U.S.C. that I served upon:

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a true copy of: Plaintiff's Objections and Motion
to Alter or Amend the Judgment by U.S. Mail
by placing same in NENMCF institutional mail for
mailing with proper first-class postage paid on
April 2, 2025



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